IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.7171 OF 2005

Nathurbhai @ Natwarbhai
Purushottambhai Patel ... Applicant

versus

The State of Maharashtra ... Respondent

Mr.Shirish Gupte - Sr.Counsel with Mr.Subodh Desai i/by M/s.Little & Co. for the applicant.

Ms.S.D.Shinde, APP for the respondent.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 21st November 2005

PC :

1. Heard Shri Shirish Gupte - learned Senior Counsel for the applicant and Ms.Shinde for the respondents.

2. C.R.No.65/2003 is registered with Economic Offence Wing (GBCB, CID, Mumbai). The offences alleged are under sections 406, 420, 465, 467, 468, 471 R/W 120-B of IPC..

3. The complainant IDBI is a banking company. It alleges that the promoters of M/s.Sathi

International Limited submitted a proposal to the said bank requesting for the financial assistance to the tune of Rs.30.00 crores. The proposal was to set up a full integrated garment manufacturing unit in Coimbatore, Tamil Nadu State.

4. As far as applicant is concerned, the allegations are that the proposal was prepared and certified by the applicant as a partner of M/s.Nathurbhai Patel and Company, Chartered Accountants. It is alleged that relying upon this certificate that IDBI granted facilities including opening of a irrevocable Letter of Credit. The Special Auditor appointed at Chenni by IDBI, after the entire irregularities were revealed, has submitted his report. It alleges serious acts of irregularities, omission and commission. There is a charge that the applicant entered into a criminal conspiracy and submitted fictitious and forged documents.

5. The undisputed facts are that the applicant was arrested on 21st September 2005 along with one of the promoter and was remanded to police custody till 7th October 2005. Thereafter he is in magisterial custody.

6. He is 72 years of age residing permanently at Mumbai. He is a Chartered Accountant by profession. He is willing to attend the Police Station. The applicant is also agreeable to surrender his pass port to the investigating authority before his release. Similarly, he is agreeable to abide by all other conditions.

7. In my view, considering the enormity of the amount and the nature of the fraud, it was expected that the prosecution acted with expediency. Ms.Shinde points that one of the promoters is absconding. However, it is undisputed that one promoter and the applicant has been in custody from 21st September 2005. The records including certificates, documents and papers relating to the proposals have already been seized. In these circumstances, further detention of the applicant is not necessary. Moreso, considering the fact that he is in profession and 72 years of age.

8. Accordingly, following order :-

(i) The applicant shall be enlarged on bail in connection with C.R.No.65/2003 registered with the Economic Offence Wing (GBCB CID, Mumbai) subject to furnishing a personal bond of Rs.50,000/- (Rs.Fifty thousand only) and one

surety in the like nature;

(ii) The applicant shall surrender his pass port forthwith;

(iii) The bail is granted subject to condition that the applicant will attend the concerned Police Station twice a week namely on Monday and Thursday between 1100 hrs. and 1400 hrs. till the trial is over;

(iv) The bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

(v) The applicant shall co-operate with the Trial Court for expeditious disposal of the trial. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

(vi) Any observation/s made in this order shall not be constructed as any finding or any expression of opinion on the merits of the case at the time of trial.

(vii) Application is disposed of in above terms.

(S.C.DHARMADHIKARI, J.)